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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,088	11/27/2001	David J. Steklenski	83759D-W	9574

7590

04/08/2004

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EXAMINER

CROSS, LATOYA I

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,088

Applicant(s)

STEKLENSKI ET AL

Examiner

LaToya I. Cross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1-9-04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to Applicants' amendments filed on January 9, 2004.

Claims 1-8 and 10 are pending.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirollos et al in view of Morita et al, as taught by US Patent 5,637,876 to Donahue et al.

Kirollos et al disclose a self appearing warning device for use as a colorimetric dosimeter in indicating exposure to radiation. The embodiment of the device shown at figure 7 comprises an indicating region (2) and identification mark (8). The indicator layer absorbs radiation. The identification mark provides a warning as to the exposure to radiation by changing colors in the presence of radiation. Figure 13 shows various marks, including alpha numeric characters and symbols. The mark can be printed or coated onto the substrate. Where the mark is printed onto the substrate, a label is formed and this layer is attached to other layers/supports in the device. The substrate onto which the mark is printed can be considered an intermediate layer and the printed mark itself may be considered a colored layer.

Kirollos et al differ from the instant invention in that the indicator is not disclosed as containing alanine and a binder.

Morita et al teach a dosimeter for indicating exposure to radiation. The dosimeter is comprised of alanine and contains an alanine binder. The alanine binder may be a synthetic rubber, such as urethane. Morita et al teach that the alanine dosimeter provides accurate

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simple measurement of absorbed doses of ionizing radiation. It would have been obvious to one of ordinary skill in the art to use the alanine/binder dosimeter composite as the indicator in Kirollos et al to provide a device for detecting radiation that is simple, yet accurate.

With respect to the identification mark being revealed by using a laser, this language in the claim is considered to be functional language and does not limit claims directed to an apparatus. See MPEP 2114. Even if the limitation were considered limiting, the user of lasers to detect marks is conventional in the radiation dosimeters, as taught by Donahue et al. Using a laser allows the detection of radiation to be carried out automatically. When detection is done automatically, more accurate detection results.

Response to Arguments

3. Applicant's arguments filed January 9, 2004 have been fully considered but they are not persuasive. With respect to the rejection over Kirollos et al in view of Morita et al, Applicants argue that neither reference teaches an identification mark for disclosing the source or origin of the dosimeter, for example calibration number and/or lot number. In response, the use of the identification mark for disclosing the calibration number and/or lot number is not claimed. The claims recite "identification mark on a substrate", which phrase does not require any particular use for the identification mark. Further, Applicants claims may be considered obvious where the prior art teaches a reason different from Applicant, for using a particular feature. See MPEP 2144.

Applicants also argue that neither reference teaches a label. In the Kirollos et al reference, the mark is printed onto a substrate, which may be considered a label and attached to other layers.

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Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on January 9, 2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 571-272-1256. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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April 5, 2004


LYLE A. ALEXANDER
PRIMARY EXAMINER